



Memorandum

TO: CITY COUNCIL

FROM: Mayor Chuck Reed
Councilmember Sam Liccardo
Councilmember Rose Herrera

SUBJECT: ACTIONS RELATED TO THE
PHASE-OUT OF EXPANDED
POLYSTYRENE FOAM FOOD
WARE

DATE: August 23, 2013

APPROVED:

RECOMMENDATIONS:

Accept staff recommendations to phase out Expanded Polystyrene (EPS), with the following approach:

1. Adopt a resolution adopting the Negative Declaration analyzing the regional environmental impacts of a phase-out of expanded polystyrene food ware; and;
2. Approve an ordinance to phase-out the use of expanded polystyrene food service ware, with the first phase implementation effective January 1, 2014 and financial hardship exemption provisions as specified.

BACKGROUND

Trash Reduction Efforts

Adopting the Negative Declaration and corresponding ordinance phasing out EPS will help propel San José toward our stormwater trash reduction target of 40% by 2014, and 70% by 2017. This also brings San José closer to the fifth goal in our Green Vision: Divert 100% of waste from our landfill. EPS food ware comprises as much as 15% of trash found in storm drains. Polystyrene poses a unique trash burden due to its light weight (often blowing out of vehicles and trash cans) buoyancy, brittleness (it readily breaks into small pieces, making it difficult to clean and recycle), and nonbiodegradability. Although "clean" polystyrene can be recycled, it is difficult and expensive to clean. Wildlife mistake EPS for food, introducing a known carcinogen and neurotoxin into our food stream.

San José's successful plastic bag ban has resulted in dramatic reductions in the plastic bag's share of trash found in storm drains (89% decrease) and creeks (a 60% decrease). A ban on EPS can have similar results, both in San José, and throughout the region.

Outreach

Environmental Services staff have invested extraordinary time and energy in outreach. They have held multiple stakeholder meetings, made presentations at business association meetings, and walked door-to-door to individual restaurants. They have conducted outreach through vendor fairs and engaged in collaborative approaches to distributing information to thousands of restaurants. In

all, they have met directly with the owners or operators of over 1,100 small restaurants throughout San José since we launched this effort in 2011.

Economic Impact

San José conducted the 1st of its kind analysis of the economic impacts that an EPS ban may have on food service establishments. The study confirmed that ordinances to ban EPS in other California cities have had no adverse impacts.

Notably, many restaurants that have chosen non-EPS options have *actually saved money*. In diverse settings-- food chains such as some Lee's Sandwiches locations, some single location restaurants such as the Blue Rock BBQ on Meridian Ave, and mall shops such as The Loving Hut in Oakridge Mall--non-EPS food packaging has reduced packaging costs for the business. For example, replacing a clamshell and plastic bag with wax paper and no bag has reduced costs to Lee's Sandwiches, while replacing EPS containers with alternative paper products in multiple restaurants has reduced the volume of their trash--and their garbage collection rates.

Even with examples of cost reduction already occurring with early adopters, ESD staff have thoughtfully introduced a process whereby "vulnerable" restaurants with gross incomes under \$300,000 can apply for an exemption. Staff have allowed for restaurants to phase-out their use of EPS, and if no alternative packaging is available, qualifying food establishments can seek a hardship exemption.

Regional Movement

We commend our Environmental Services Department, which partnered with the cities of Morgan Hill, Cupertino, Sunnyvale, Mountain View, and Los Altos, to research, conduct outreach, and gather feedback regarding the proposed EPS phase-out. This regional collaboration has encouraged many of these cities to work to phase-out EPS within their own jurisdictions. Palo Alto and Los Altos Hills have already enacted bans, and Santa Clara County has begun to phase-out EPS in unincorporated areas of the County. The cities of Sunnyvale, Cupertino, Los Altos and Mountain View have all begun work to adopt bans, and staff in each city has made clear that they are merely waiting for the City of San José to take the lead. Morgan Hill and Campbell have placed an EPS ordinance on their work plan, indicating that they will model their version on the San José ordinance.

As with the plastic bag ban, if San José can show the necessary leadership, nearly every jurisdiction in the South Bay will join in improving the quality of our creeks, streams, and bay by adopting a phase-out of EPS. Let's begin that worthy endeavor.